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17 MAR 2008

In re Application of	:	
Barney et al.	:	
Application No.: 10/574,386	:	DECISION
PCT No.: PCT/US04/32160	:	
Int. Filing Date: 02 October 2004	:	ON
Priority Date: 02 October 2003	:	
Attorney Docket No.: TEVA33001	:	PETITION
For: Dry Powder Inhalation Apparatus	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on 11 January 2008.

### **BACKGROUND**

On 18 September 2007, a decision was mailed to applicants, dismissing without prejudice a petition under 37 CFR 1.47(a) filed on 02 May 2007.

On 13 December 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 02 October 2006.

### **DISCUSSION**

Petitioner urges that the Notification of Abandonment was issued improperly and should be withdrawn. Review of the record reveals that petitioner filed a petition under 37 CFR 1.47(a) on 02 May 2007 and that, on 18 September 2007, said petition was dismissed without prejudice. The Decision mailed on 18 September 2007 set a two-month period for response which, as extendable under 37 CFR 1.136(a), will expire as of midnight on 18 April 2008. The Notification of Abandonment mailed on 13 December 2007 was issued in error, and it is hereby **VACATED**.

### **DECISION**

The petition under 37 CFR 1.181 is **GRANTED**.

The period for response to the Decision mailed on 18 September 2007, as extendable under 37 CFR 1.136(a), continues to run.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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